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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,863	04/12/2004	Andreas Hamburger	321.43756X00	1849
20457 7590 08/14/2009 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873				
EXAMINER PELHAM, JOSEPH MOORE				
ART UNIT 3742		PAPER NUMBER		
NOTIFICATION DATE 08/14/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/821,863

Applicant(s)

HAMBURGER ET AL.

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 8, 10-13, 31, 39 and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 8, 10-13, 31, 39 and 42-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The amendment filed 8/3/09 is acknowledged. Claims 4, 8, 10-13, 31, 39, and 42-45 are now pending. The examiner notes with chagrin that further review of the claims and prior art of record has determined grounds of rejection for subject matter previously indicated to be allowable. He can offer as explanation just that the claims remain quite broad, allowing considerable latitude in their interpretation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 4990748.

US'748 discloses a device having an insulating frame 11 (Figs. 1 & 2) having parallel, spaced longitudinal struts 13 and longitudinally spaced crossbars 16 linking the longitudinal struts, and at least one contact plate 22, 26 held in grooves in the frame (the 'grooves' between elements 19 and 28) and projecting beyond the end of the frame, wherein the struts and spaced crossbars surround recesses 29 for receiving PTC elements, and at the longitudinal end portion of the frame 11, the contact plate is completely and tightly surrounded by the frame (by clip 18).

It is further noted that since the claimed frame is an article or product, the method or process of forming or making or assembling the contact plate or base to the frame by molding is not germane to the patentability of the claimed frame since the final product is still the product itself (i.e., product by process is still a product).

Claim Rejections - 35 USC § 103

Claims 13, 31, 39, and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'748 in view of US Pat. 6373705.

US'748 discloses an electrically insulating frame 11 and an electrically insulating/thermally conductive cover on the side of the contact plate opposite the side receiving the PTC elements. Crossbars 16 are "inwardly directed studs for the positive retention of the PTC elements" since they are directed "inwardly" from struts 13, and they "positively retain" the PTC elements when the device is assembled. The claims differ substantively from US'748 only in calling for the frame and insulating cover to be a polymer ceramic.

US'705 discloses, at col. 4, lines 37-46, a polymer ceramic insulating member 2 used to transfer heat away from a heated component. It would have been obvious to utilize the polymer ceramic for the frame and insulating cover of US'748 since US'705 discloses such to have properties which are clearly desirable in such PTC heater

applications, where electrical contacts must be insulated while heat is efficiently transferred away from the PTC element.

While US'705 does not explicitly disclose bulges to secure the frame in a profile tube, since the acknowledged prior art already discloses that the frame and heater assembly must be inserted in a profile tube, the use of bulges to secure the frame in place does not patentably distinguish the claimed invention from the prior art. It would have been obvious to form bulges to secure the frame in the profile tube since one conventionally secures such an arrangement either by friction or glue; friction requires some part of the inserted frame to extend into contact with the tube, i.e., a "bulge."

Applicant is encouraged to review the prior art cited but not applied when replying to this Office action. Note specifically US Pat. 6472645, which discloses a polymer PTC frame.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph M. Pelham/
Primary Examiner, Art Unit 3742
8/12/09